



*Testimony of Open Communities Alliance
in support of HB 7297, An Act Establishing a Private Right of Action in the
Duty to Promote Fair Housing and Requiring a Study of Connecticut's
Housing Inventory and Current and Future Housing Needs
March 22, 2017*

Thank you to the leadership and members of the Planning and Development Committee for this opportunity to testify. My name is Erin Boggs and I am the Executive Director of Open Communities Alliance (OCA), a non-profit civil rights organization that focuses on ensuring that low-income families of color have access to the wealth of opportunities in our state through a balanced approach to affordable housing creation. I am here today to testify in favor of HB 7297, An Act Establishing a Private Right of Action in the Duty to Promote Fair Housing and Requiring a Study of Connecticut's Housing Inventory and Current and Future Housing Needs.

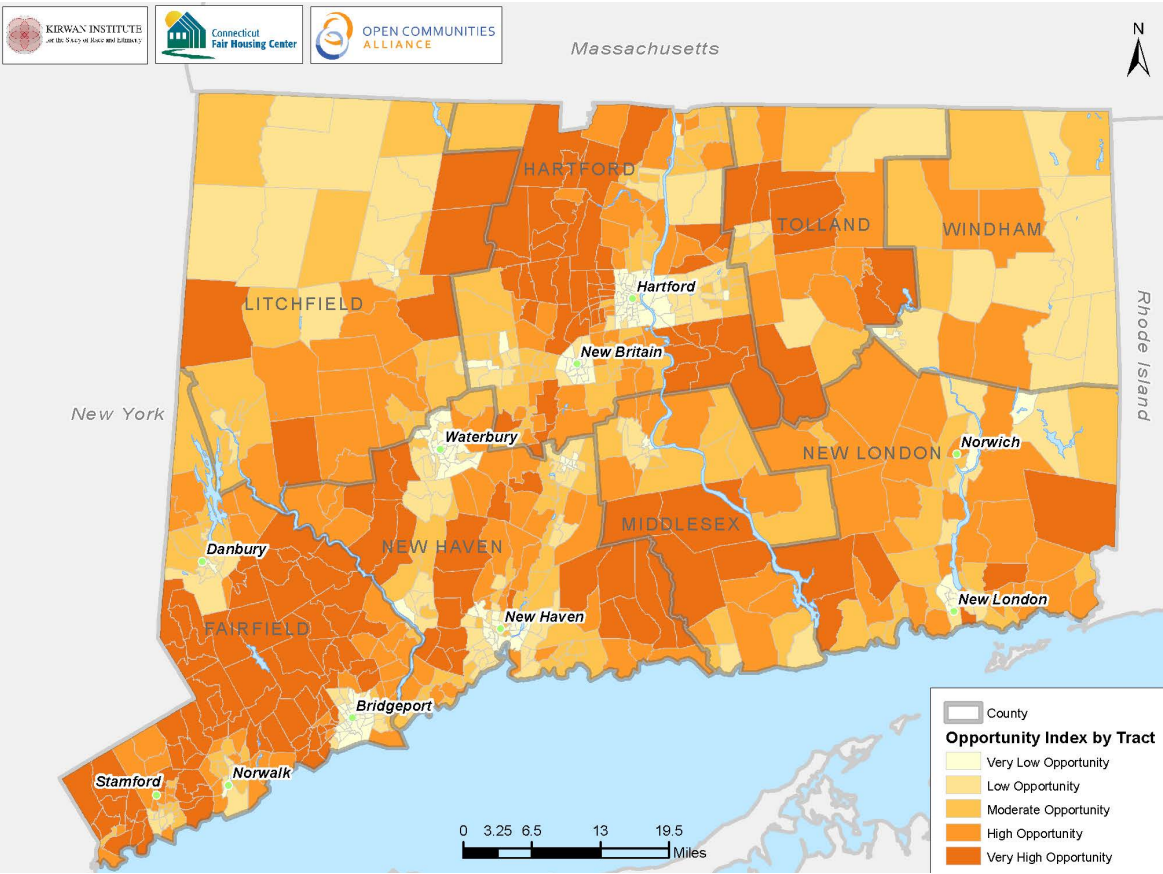
You will hear testimony today about how deeply segregated Connecticut is and how this segregation imposes huge costs on every resident of every race, ethnicity, and income. I will not belabor that point except to say if we approach this correctly, I believe we can have a wonderfully diverse state in which every community is a community of opportunity.

The Challenge

I will point to four maps to make the connection between Connecticut's deep level of segregation and our housing policy. The first is a base map of "opportunity" in Connecticut, which uses 12 data points to identify places that are struggling and places that are thriving in the state, based on factors like school performance, job access, crime and poverty rates, and home ownership levels.

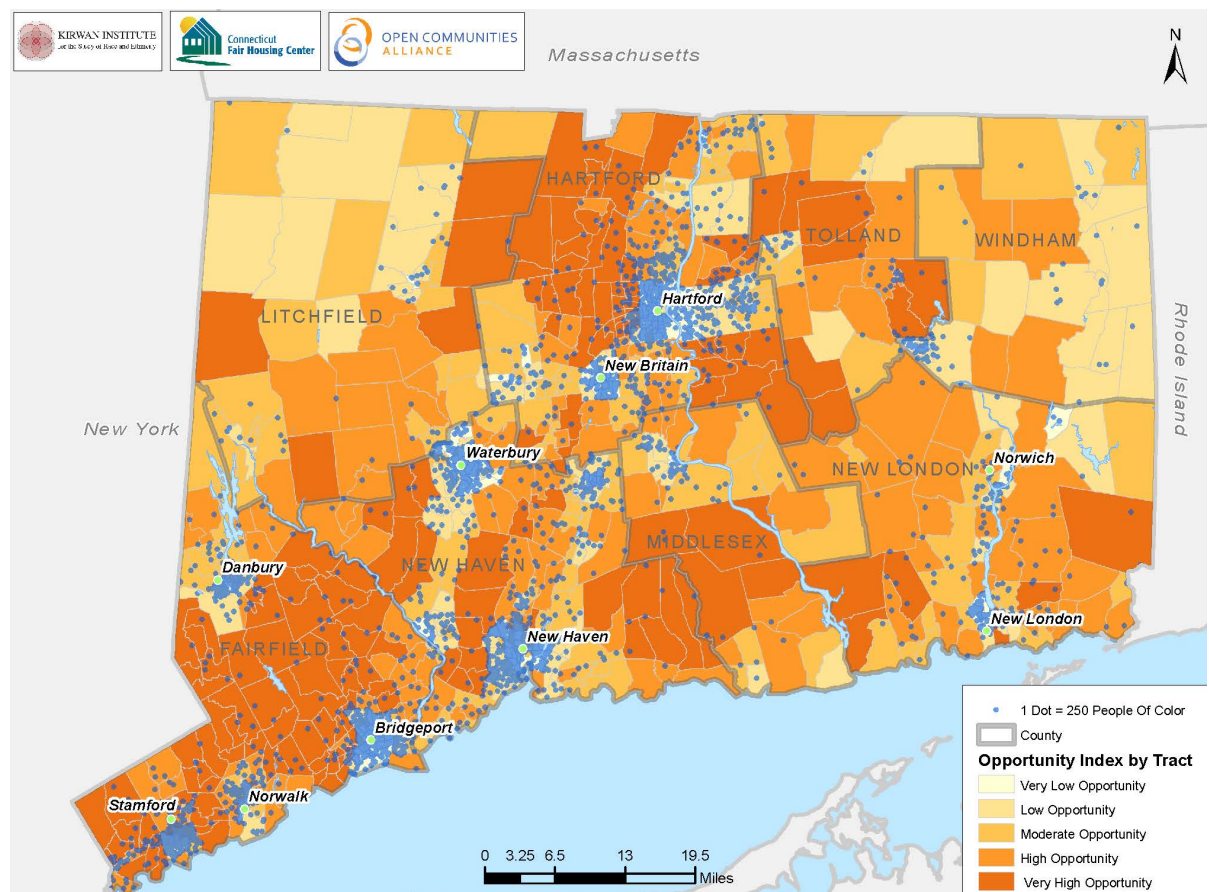
Data points used to develop the Opportunity Map of Connecticut		
Educational Indicators	Economic Indicators	Neighborhood/Housing Quality Indicators
Students Passing Math Test Scores	Unemployment Rates	Neighborhood Vacancy
Students Passing Reading Test Scores	% of Population on Public Assistance	Crime Rate
Educational Attainment	Job Growth	Neighborhood Poverty Rate
	Employment Access	Homeownership Rate
	Job Diversity	

Map 1: Opportunity Map of Connecticut



On this map, areas that are shaded in dark orange are “higher opportunity” than those that are shaded in light yellow. This mapping includes five levels – very low opportunity, low opportunity, moderate opportunity, high opportunity and very high opportunity. The first thing that is evident to many people when they first view this map is the great mix of opportunity levels in Connecticut and how, in many cases, higher opportunity areas (those that are “high” and “very high”) are frequently proximate to lower opportunity communities (those that are “low” and “very low”). It is also notable that areas of the state located in the northwest and northeast corners are struggling, although typically not to the same extent as the state’s urban areas.

Map 2: Opportunity Map of Connecticut with the Population of Color

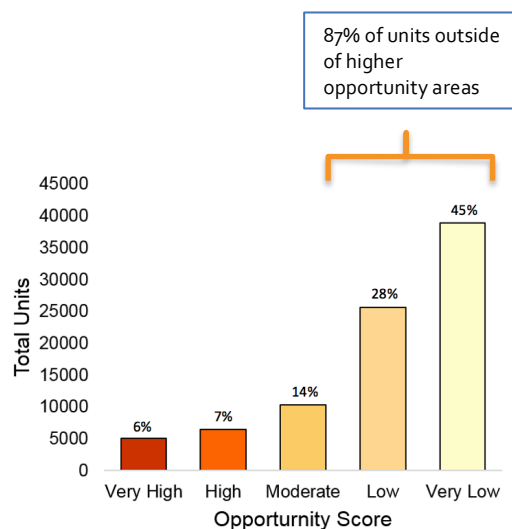
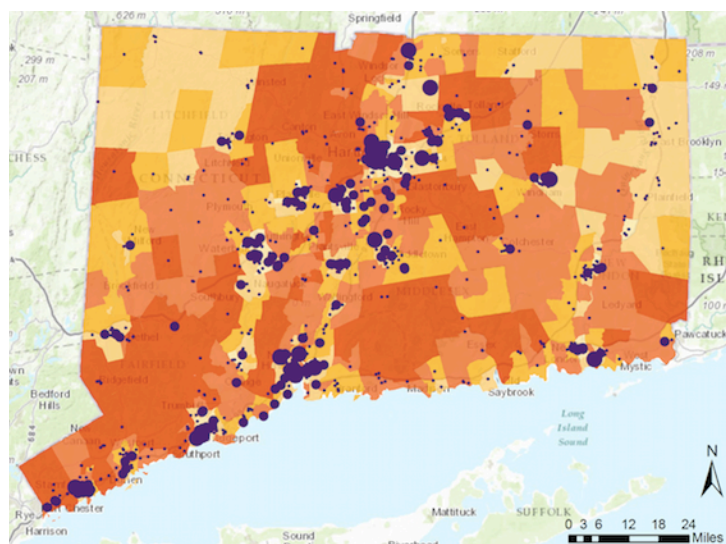


Map 2 reveals something that most of us already knew – Connecticut’s population of color is highly segregated into the areas that are most under-resourced. In fact, 73% of Blacks and

Latinos are living in lower opportunity areas, compared with only 26% of Whites and 36% of Asians. When we wonder about the causes of the deep racial and ethnic disparities in our state, this map makes many of the causes clear.

Because, on average, Blacks and Latinos earn half or less of what Whites earn, the location of affordable and subsidized housing plays a critical role in determining housing choices. Map 3 reveals, based on the best available data, the location of the subsidized housing stock in the state.

Map 3: Opportunity and Subsidized Housing Location (Preservation List)

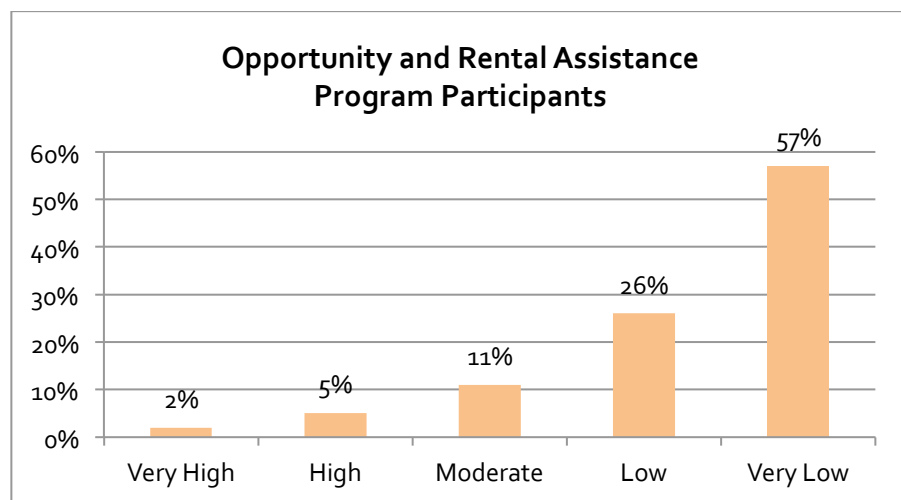
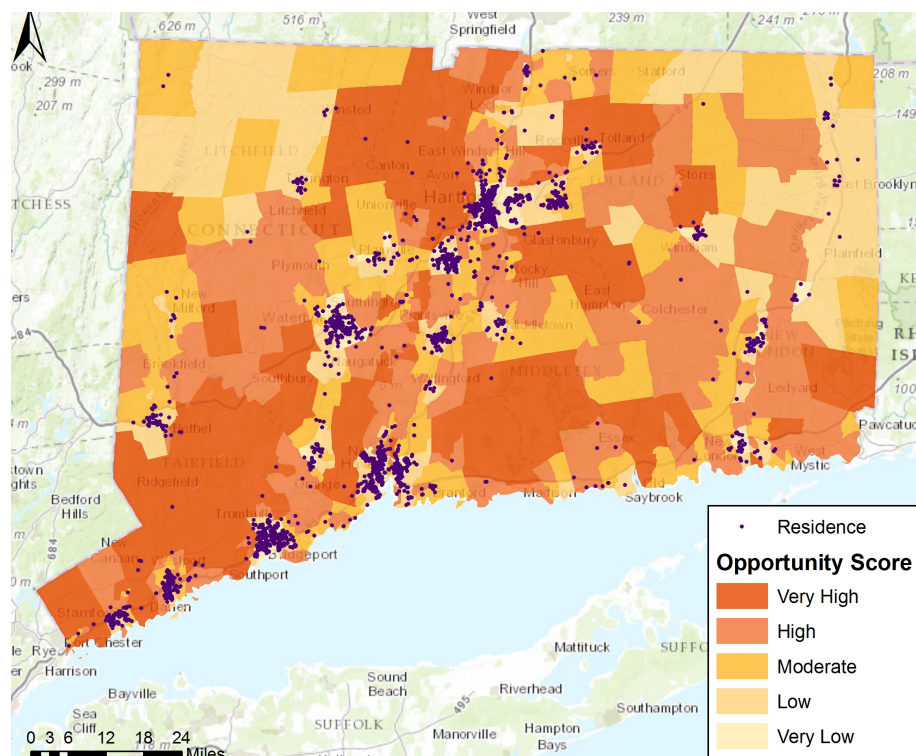


This analysis reveals that only 13% of subsidized housing is located in higher opportunity areas – which represent 60% of the land area of the state. These areas are home to 40% of the state’s population.

As was previously mentioned, these maps are based on the “best available” data. These are data that for many years were compiled in a basic form by the Connecticut Housing Finance Authority. Non-governmental data analysts spent several months updating these data,

including geocoding them, in 2012 for inclusion in a report required by the U.S. Department of Housing and Urban Development, the Analysis of Impediments to Fair Housing Choice, which was released in 2015. These data have not been updated since that time and there is not a single list kept by the state of the entire inventory of subsidized housing stock in the state. Still, it is clear that these state resources have been used in a manner that fosters poverty concentration and limits affordable choices for low-income families of all races.

Map 4: Opportunity and Rental Assistance Program Participant Locations



The impact of our affordable and subsidized housing patterns is made plain by where people using the state's Rental Assistance Program are living – only 7% are living in higher opportunity areas – areas that are home to Connecticut's highest performing schools. These data, again, are from 2012 and while it is collected by the state in the regular course of business, it is not shared with the public, although this could happen in a manner that does not divulge personal information of program participants.

The Solution

Open Communities Alliance supports HB 7297 as the beginning steps of a broader common sense approach to put Connecticut on the road to addressing housing segregation in our state. The bill embodies two simple proposals:

- (1) A requirement that the state collect information on the current and future need for affordable housing and
- (2) To restore enforceability to Connecticut's affirmatively furthering fair housing state law, CGS 8-37cc(b).

The Need to Know

There are at least two compelling reasons to collect and publish data on housing needs. One is basic, the other is part of a broader move towards regional housing goals.

First, the basic reason to collect data on housing need: it is a core government function and central to responsible housing planning. If we have no sense of how our current housing stock matches up against our need for housing, we have no way of planning for the future.

A second reason to collect and analyze housing need data is to have a clearer sense of whether we are developing affordable housing in a manner that promotes fairness across geographies

and broadens housing choices for historically disenfranchised groups in areas that have access to opportunity.

I am grateful to the Planning and Development Committee and the Housing Committee for considering this proposal, but would simply highlight a few potential additions that would improve the current regime for collecting needs data.

There are a number of statutes that mandate or allow for a housing needs assessment. Of these, the clearest requirement is in 8-37t, which requires the Department of Housing to submit a Consolidated Plan every five years in accordance with the requirements of the federal Department of Housing and Urban Development (HUD) under 24 CFR 91 Part D. The Consolidated Plan requires an estimate of the number and type of families who will need housing assistance including:

- (A) Extremely low-income, low-income, moderate-income, and middle-income families;
- (B) Renters and owners;
- (C) Elderly persons;
- (D) Single persons;
- (E) Large families;
- (F) Public housing residents;
- (G) Families on the public housing and Section 8 tenant-based waiting list;
- (H) Persons with HIV/AIDS and their families;
- (I) Victims of domestic violence, dating violence, sexual assault, and stalking;
- (J) Persons with disabilities; and
- (K) Formerly [homeless](#) families and individuals who are receiving [rapid re-housing assistance](#) and are nearing the termination of that assistance.

There are two issues with this process. First, HUD's requirements omit several key demographics that have a disproportionate need for affordable housing or specialized housing needs. These include single parent families (distinguishing between single mother, single father

and other caregiver), housing for people with mobility challenges, and families of various sizes,¹ and geographically diverse affordable housing that would increase choices for groups that have historically faced discrimination and intentional segregation.

A second concern is the resources available to Connecticut's housing agencies, the Department of Housing and the Connecticut Housing Finance Authority, to undertake such a study. In the 2015-2019 Consolidated Plan projections for several of the specific housing needs categories requested by HUD are not included. Absent are hard number projections for the need for accessible housing, larger bedroom sized units, elderly housing, and units affordable to different tiers of lower income renters, just to name a few.

Given these deficiencies, I would urge the Committee to carefully and specifically craft the language of this statute to ensure the needed data is collected. I would also encourage this Committee to provide guidance on the breadth of information that this needs assessment should provide on its estimate of the state's current subsidized and affordable housing stock. Without knowing this stock, we cannot know what is needed to fill the gap in the projected need. There has been an underinvestment in keeping track of critical data on the state's subsidized housing stock. Any assessment of the affordable housing needs gap should include full and complete information on the existing stock.

State Law to Affirmatively Further Fair Housing

In 1991, the Connecticut legislature passed an important civil rights law, CGS Section 8-37cc(b), which required the Department of Housing and the Connecticut Housing Finance Authority to run their programs in a manner that "affirmatively furthers fair housing." In other words, the agencies needed to leverage their programs to undo our government's long and sad history of intentionally promoting segregation. Given the interpretation of the equivalent federal law in

¹ HUD's "larger families" for whom data are requested are defined as families with five or more members. Additional nuance about family size would further aid planning.

1991, the political environment in which 8-37cc(b) was passed, and that state law's legislative history, it is clear that the statute was intended to be enforceable like other civil rights laws.

In 2006, the Connecticut Supreme Court ruled that this provision did not include a "private right of action," meaning that no person hurt by a failure to follow the law could make a legal claim based on it. This, in part, reflected a change in the interpretation of the parallel federal law and also a technical determination about the location of the CT provision within the statutes. The upshot is that, despite the wishes of the legislature, this provision is practically meaningless.

Over the last eight years, changes at the federal level that enhanced the administrative avenues supporting affirmatively furthering rights under the federal Fair Housing Act decreased the urgency of addressing this hole in Connecticut law. However, these advances will likely be rolled back or defunded, making it critical to ensure local protections.

If there is one thing that we have learned from our nation's civil rights history, it is that civil rights laws are meaningless without a way to enforce them. As was originally intended when the law was passed in 1991, the affirmatively furthering duty should be given the enforceability granted to other housing-related civil rights under state statutes.

There are several compelling reasons to pass this proposal.

- (1) Connecticut is one of the most segregated states in the nation and this is undermining family stability and our economic productivity.
- (2) If passed, this proposal would function to *limit* litigation because it would provide the state's housing agencies with clear guidance from the legislature on how to carry out their duties.
- (3) The state has only become more segregated since 1991, meaning that without enforceability, this provision is not achieving the result the legislature intended.
- (4) There is significant case law and regulatory guidance at the federal level to assist state agencies with understanding their affirmatively furthering obligations.

- (5) Making the state affirmatively furthering fair housing obligation more meaningful will help ensure that HUD funding, which is contingent on proactively promoting integration, continues in Connecticut.

The legislature intended that this provision exist as a fully enforceable civil rights law. The Connecticut Supreme Court found this could not happen due to a technical error. It is time for the legislature to restore this law to its full enforceability as the legislators in 1991 intended.